

Notice of Allowability

Application No.

09/612,925

Examiner

S. Devi, Ph.D.

Applicant(s)

DURATE CANO ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 10/28/04.
2. ☒ The allowed claim(s) is/~~are~~ claim 11, now renumbered as claim 1.
3. ☒ The drawings filed on 10 July 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/930,917.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other Attachment.

ATTACHMENT TO NOTICE OF ALLOWABILITY

Examiner's Amendment

1) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization to prepare this Examiner's amendment was provided by Mr. Andrew F. Young in a telephonic interview on 17 January 2005. The following amendments to which Applicants have consented are made to provide the full recitation for the depository: 'BCCMTM' and to more clearly define the specificity of the recited monoclonal antibody in the claim. The title has been amended to reflect the claimed invention.

This application has been amended as indicated below:

(a) In line 4 of page 28 of the specification as amended on 06/16/04, the limitation 'BCCMTM/LMBP' is replaced with --the Belgian Coordinated Collections of Microorganisms, BCCMTM/LMBP-COLLECTION-- as it appears in the Notice of the original deposit issued from the depository (see the Notice submitted by Applicants on 01/26/04).

(b) In line 2 of claim 11, the limitation 'BCCMTM/LMBP' is replaced with --the Belgian Coordinated Collections of Microorganisms, BCCMTM/LMBP-COLLECTION--.

(c) In line 5 of claim 11, for clarity, the limitation 'is specific for' is replaced with the recitation --that specifically recognizes--.

(d) The title of the application 'Expression system of heterologous antigens as fusion proteins' on the file label and at the top of page 1 of the specification is replaced with --A Monoclonal Antibody to the Stabilizer Peptide of the P64K Antigen of *Neisseria meningitidis*--.

Applicants' Amendment

2) Acknowledgment is made of Applicants' amendment filed 10/28/04 in response to the *Ex parte Quayle* Action mailed 09/03/04, which amendment has been entered. With this, Applicants have amended the specification to fix the formal matter identified in paragraph 1 of the *Ex parte Quayle* Action mailed 09/03/04.

Status of Claim(s)

3) Claim 11 has been amended via this Examiner's amendment.
Claim 11 is pending and is under examination.

Remarks

- 4) Claim 11, now renumbered as claim 1, is allowed.

The amendments to line 4 of page 28 of the specification and to line 2 of claim 11 are made to provide the full name of the depository as it appears in the Notice of the original deposit issued from the depository (see the Notice submitted by Applicants on 01/26/04). The amendment to line 5 of claim 11 is made to more clearly define the specificity of the recited monoclonal antibody in the claim and is supported in the second full paragraph of the specification, as amended on 06/16/04.

- 5) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Fax number for submission of amendments, responses or papers is (571) 273-8300.

- 6) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

- 7) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

January, 2005